January 30, 2003

Chairman Michael Powell
Commissioner Kevin Martin
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Jonathan Adelstein
445 12th Street SW, Portals II Building
Washington, D.C. 20544

RE: CC Docket Nos. 01-338, 96-98 and 98-147
In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers
Ex Parte Comment

I write to request that the Commission retain line sharing on the national Unbundled Network Element (UNE) list. Elimination of line sharing as a UNE would discourage competition for the deployment of advanced services and disregard the vision of the Telecommunications Act of 1996 with respect to ubiquitous deployment of advanced services to all segments of society.

The FCC included line sharing on the UNE list in November 1999 (Report No. CC 99-54, CC Docket No. 98-147), thereby making competitive access to high speed Internet service an economic choice for residential customers. Since 1985, Oregon has had a statute that requires the Public Utility Commission (OPUC) to promote innovative services by balancing regulation and competition (ORS 759.015). OPUC was one of the first state commissions in the nation to explore how an incumbent local exchange carrier's network could be unbundled so that wholesale services could be offered to competitors. At the time of our early proceedings, we called these parts of the network "building blocks." In 2000, we decided to align our scheme of unbundling with that of the FCC. On June 19, 2000, we decided that line sharing should be on our list of UNEs (Order No. 00-316). Using a workshop format, our staff worked with interested parties to reconcile our list of building blocks with the FCC's list of UNEs We adopted our list of UNEs on December 26, 2001 (Order No. 01-1106).

In Oregon, we are aware of about 2,000 customers who are receiving services through line sharing. CLECs usually prefer to provide DSL and any high speed access to the Internet for business over leased lines, but line sharing is the more economic choice for providing high speed service to residential customers. If line sharing is eliminated as a UNE, residential customers in particular could experience some disruption in service if CLECs decided to exit the market because it is not profitable to provide services using another method. Customer disruption due to regulatory changes should be avoided if possible. Competitors who are uncertain whether they will be able to continue to provide service due to changes in FCC rules are understandably reluctant to offer services that rely on line sharing if they think that line sharing might be taken off the list of UNEs available to them. If line sharing remains on the list of UNEs, and there is some assurance that its availability will not be threatened, CLECs will be more willing to recruit new customers for the service and competition to provide high speed services will be enhanced. Removing this subloop UNE would give the bottleneck back to ILECs for advanced services at unregulated prices or require a CLEC to purchase a second loop to provide advanced services, thereby raising the cost of entering the market.

Choice of providers will help discipline prices, which, in turn, will stimulate demand. Many observers have noted that the price of high speed services is the major factor that currently discourages consumers from using these services. Keeping the marketplace open to competitors by retaining line sharing as a UNE will mean lower prices and more widespread deployment of high speed services, consistent with the goals of the Telecommunications Act of 1996 (Act).

Customers should have a choice of service providers for both basic and advanced services. Intramodal competition is important for customers who do not have a choice of a type of service provider other than a local exchange telephone company, as well as for those who do. Removing line sharing as a UNE would reduce the opportunity for competition and cause disruption to at least some customers receiving service from CLECs through a line sharing arrangement.

State Commissions are in the best position to know how elimination of any UNE, including line sharing, will impact competition and customer choice in their states. There may be some markets in which there is sufficient competition and many facilities-based providers. The FCC could determine that line sharing is a UNE that states could decide to eliminate from the list on a market-by-market basis, if selected criteria are met. The considerations discussed in the paragraphs above are among those that should be taken into account in state-level proceedings where the final decision should be made as to whether a UNE should be kept, removed, or added to the list of UNEs available in a given market.

Thank you for your consideration of these ideas. Our Commission looks forward to working with you and having a significant role in carrying out UNE-related responsibilities in the future.

Smith

Joan Smith
Commissioner